

548. The NOS/ANI employee's statement that Yellville's new carrier switch was incomplete and that NOS/ANI was still showing call traffic from Yellville was false.
549. At the time of the statement, the NOS/ANI employee knew that its statement that Yellville's new carrier switch was incomplete and that NOS/ANI was still showing call traffic was false.
550. NOS/ANI Management knew, at the time of the statement, the statement that Yellville's new carrier switch was incomplete and that NOS/ANI was still showing call traffic was false.
551. After Yellville had switched its service provider from NOS/ANI, a NOS/ANI employee contacted Yellville and represented that Yellville's telephone service would be interrupted unless Yellville signed a NOS/ANI LOA to keep the lines up and running until the new carrier could finish switching the lines.
552. The NOS/ANI employee's statement that Yellville's telephone service would be interrupted unless Yellville signed a NOS/ANI LOA to keep the lines up and running until the new carrier could finish switching the lines was false.
553. At the time of the statement, the NOS/ANI employee knew that its statement that Yellville's telephone service would be interrupted unless Yellville signed a NOS/ANI LOA to keep the lines up and running until the new carrier could finish switching the lines was false.
554. NOS/ANI Management knew that, at the time of the statement, the statement that Yellville's telephone service would be interrupted unless Yellville signed

562. NOS/ANI Management knew that, at the time of the statement, the statement that a NOS/ANI LOA would be a temporary authorization, effective only until the new carrier had completed the switch to its service, was false.
563. Yellville did not authorize NOS/ANI to switch its service provider back to NOS/ANI.
564. The NOS/ANI employee used misleading statements or practices in its attempt to induce Yellville to sign a NOS/ANI LOA.
565. If NOS/ANI obtained Yellville's authorization to switch its carrier to NOS/ANI by convincing Yellville to execute a NOS/ANI LOA, NOS/ANI did so through the use of misleading statements or practices.
566. Yellville did not expressly, knowingly or willingly authorize NOS/ANI to switch its telephone service back to NOS/ANI.

Tideland Electric Membership Corporation

567. Immediately prior to April 19, 2002, Tideland Electric Membership Corporation ("Tideland") was a customer of NOS/ANI.
568. On or about April 19, 2002, Tideland's telephone number was 252/943-3046.
569. On or about April 19, 2002, Tideland's mailing address was P.O.B. 159, Pantego, North Carolina 27860.
570. On or about April 19, 2002, Tideland switched its preferred IntraLATA and InterLATA Service provider from NOS/ANI.
571. After Tideland had switched its service provider from NOS/ANI, a NOS/ANI employee contacted Tideland for the purpose of inducing Tideland to switch its service provider back to NOS/ANI.

572. During the contact, the NOS/ANI employee utilized the *Winback Script*.
573. In the NOS/ANI employee convinced Tideland to sign a NOS/ANI LOA, NOS/ANI intended to use that document as authorization under section 258 of the Act and sections 64.1120(c) and 64.1130 of the Commission's Rules to switch Tideland's service provider back to NOS/ANI.
574. The audio tape at Attachment B contains a true and accurate recording of a telephone conversations which were recorded by NICE between NOS/ANI employee Marsha Gibbs and a representative of former NOS/ANI customer Tideland, Janice Baynor.
575. Attachment C beginning at page 11 line 4 and continuing to page 24 line 3 and beginning at page 37 line 21 and continuing to page 52 line 18 are true and accurate transcripts of telephone conversations which were recorded by NICE between NOS/ANI employee Marsha Gibbs and a representative of former NOS/ANI customer Tideland, Janice Baynor.
576. The audio tape at Attachment J contains a true and accurate recording of a telephone conversation which was recorded by NICE between NOS/ANI employee Marsha Gibbs and a representative of former NOS/ANI customer Tideland, Janice Baynor.
577. Attachment K beginning at page 3 line 2 and continuing to page 4 line 23 is true and accurate transcript of a telephone conversation which was recorded by NICE between NOS/ANI employee Marsha Gibbs and a representative of former NOS/ANI customer Tideland, Janice Baynor.

578. The audio tape at Attachment N contains a true and accurate recording of telephone conversations which were recorded by NICE between NOS/ANI employee Marsha Gibbs and a representative of former NOS/ANI customer Tideland, Janice Baynor.
579. Attachment O beginning at page 3 line 3 and continuing to page 30 line 2 is true and accurate transcript of telephone conversations which were recorded by NICE between NOS/ANI employee Marsha Gibbs and a representative of former NOS/ANI customer Tideland, Janice Baynor.
580. After Tideland had switched its service provider away from NOS/ANI, Ms. Gibbs told Ms. Baynor that Tideland's new carrier switch was incomplete and that NOS/ANI was still showing call traffic from Tideland.
581. Ms. Gibbs' statement that Tideland's new carrier switch was incomplete and that NOS/ANI was still showing call traffic was false.
582. At the time of the statement, Ms. Gibbs knew that her statement that Tideland's new carrier switch was incomplete and that NOS/ANI was still showing call traffic was false.
583. NOS/ANI Management knew that, at the time of the statement, the statement that Tideland's new carrier switch was incomplete and that NOS/ANI was still showing call traffic was false.
584. After Tideland had switched its service provider from NOS/ANI, Ms. Gibbs told Ms. Baynor that, if Tideland did not sign a NOS/ANI LOA, NOS/ANI would be keeping Tideland's lines up and running at a liability or risk to NOS/ANI.

585. Ms. Gibbs' statement that, if Tideland did not sign a NOS/ANI LOA, NOS/ANI would be keeping Tideland's lines up and running at a liability or risk to NOS/ANI, was false.
586. At the time of the statement, Ms. Gibbs knew that her statement that if Tideland did not sign a NOS/ANI LOA, NOS/ANI would be keeping Tideland's lines up and running at a liability or risk to NOS/ANI was false.
587. NOS/ANI Management knew that, at the time of the statement, the statement that, if Tideland did not sign a NOS/ANI LOA, NOS/ANI would be keeping Tideland's lines up and running at a liability or risk to NOS/ANI, was false.
588. After Tideland had switched its service provider from NOS/ANI, Ms. Gibbs told Ms. Baynor that Tideland's telephone service would be interrupted unless Tideland signed a NOS/ANI LOA to keep the lines up and running until the new carrier could finish switching the lines.
589. Ms. Gibbs' statement that Tideland's telephone service would be interrupted unless Tideland signed a NOS/ANI LOA to keep the lines up and running until the new carrier could finish switching the lines was false.
590. At the time of the statement, Ms. Gibbs knew that her statement that Tideland's telephone service would be interrupted unless Tideland signed a NOS/ANI LOA to keep the lines up and running until the new carrier could finish switching the lines was false.
591. NOS/ANI Management knew that, at the time of the statement, the statement that Tideland's telephone service would be interrupted unless Tideland signed

a NOS/ANI LOA to keep the lines up and running until the new carrier could finish switching the lines was false.

592. After Tideland had switched its service provider from NOS/ANI, Ms. Gibbs told Ms. Baynor that Tideland had to sign a NOS/ANI LOA by the close of the call to avoid an interruption in service.
593. Ms. Gibbs' statement that Tideland had to sign a NOS/ANI LOA by the close of the call to avoid an interruption in service was false.
594. At the time of the statement, Ms. Gibbs knew that her statement that Tideland had to sign a NOS/ANI LOA by the close of the call to avoid an interruption in service was false.
595. NOS/ANI Management knew that, at the time of the statement, the statement that Tideland had to sign a NOS/ANI LOA by the close of the call to avoid an interruption in service was false.
596. Despite the fact that Ms. Baynor advised Ms. Gibbs that Ms. Baynor did not have authority to sign the NOS/ANI LOA without permission from the company CEO who was unavailable, Ms. Gibbs told Ms. Baynor that Ms. Baynor was, in fact, an authorized signer on the account.
597. Despite the fact that Ms. Baynor told Ms. Gibbs that Tideland's CEO had to provide permission to sign the NOS/ANI LOA, Ms. Gibbs requested Ms. Baynor get an owner or attorney to sign instead.
598. At the time of her statement to Ms. Baynor, Ms. Gibbs was aware that an LOA signed by a person without authority for the account could not satisfy

section 258 of the Act or sections 64.1120(c) or 64.1130 of the Commission's Rules.

599. At the time of Ms. Gibbs' statement to Ms. Baynor, NOS/ANI Management was aware that an LOA signed by a person without authority for the account could not satisfy section 258 of the Act or sections 64.1120(c) or 64.1130 of the Commission's Rules.
600. After Tideland had switched its service provider from NOS/ANI, Ms. Gibbs told Ms. Baynor that a NOS/ANI LOA would be a temporary authorization, effective only until the new carrier completed the switch to its service.
601. Ms. Gibbs' statement that a NOS/ANI LOA would be a temporary authorization, effective only until the new carrier completed the switch to its service, was false.
602. At the time of the statement, Ms. Gibbs knew that her statement that a NOS/ANI LOA would be a temporary authorization, effective only until the new carrier completed the switch to its service, was false.
603. NOS/ANI Management knew that, at the time of the statement, the statement that a NOS/ANI LOA would be a temporary authorization, effective only until the new carrier completed the switch to its service was false.
604. Tideland did not authorize NOS/ANI to switch her service provider back to NOS/ANI.
605. Ms. Gibbs used misleading statements or practices in her attempt to induce Tideland to sign a NOS/ANI LOA.

606. If NOS/ANI obtained Tideland's authorization to switch its carrier to NOS/ANI by convincing Tideland to execute a NOS/ANI LOA, NOS/ANI did so through the use of misleading statements or practices.
607. Tideland did not expressly, knowingly or willingly authorize NOS/ANI to switch its telephone service back to NOS/ANI.

Tri-V Services

608. Immediately prior to May 7, 2002, Tri-V Services ("Tri-V") was a customer of NOS/ANI d/b/a CierraCom Systems.
609. On or about May 7, 2002, Tri-V's telephone number was 586/323-9916.
610. On or about May 7, 2002, Tri-V was located at 607118 Mile Road, Sterling Heights, MI 48314.
611. On or about May 7, 2002, Tri-V switched its preferred IntraLATA service, InterLATA service, and local service provider from NOS/ANI.
612. After Tri-V had switched its service provider from NOS/ANI, a NOS/ANI employee contacted Tri-V for the purpose of inducing Tri-V to switch its service provider back to NOS/ANI.
613. During the contact, the NOS/ANI employee utilized the Winback Script.
614. In the NOS/ANI employee convinced Tri-V to sign a NOS/ANI LOA, NOS/ANI intended to use that document as authorization under section 258 of the Act and sections 64.1120(c) and 64.1130 of the Commission's Rules to switch Tri-V's telephone service provider back to NOS/ANI.
615. After Tri-V had switched its service provider away from NOS/ANI, a NOS/ANI employee contacted Tri-V and represented that Tri-V's new carrier

switch was incomplete and that NOS/ANI was still showing call traffic from Tri-V.

- 616. The NOS/ANI employee's statement that Tri-V's new carrier switch was incomplete and that NOS/ANI was still showing call traffic was false.
- 617. At the time of the statement, the NOS/ANI employee knew that the statement that Tri-V's new carrier switch was incomplete and that NOS/ANI was still showing call traffic was false.
- 618. NOS/ANI Management knew that, at the time of the statement, the statement that Tri-V's new carrier switch was incomplete and that NOS/ANI was still showing call traffic was false.
- 619. After Tri-V had switched its service provider from NOS/ANI, a NOS/ANI employee contacted Tri-V and represented that Tri-V's telephone service would be interrupted unless Tri-V signed a NOS/ANI LOA to keep the lines up and running until the new carrier could finish switching the lines.
- 620. The NOS/ANI employee's statement that Tri-V's telephone service would be interrupted unless Tri-V signed a NOS/ANI LOA to keep the lines up and running until the new carrier could finish switching the lines was false.
- 621. At the time of the statement, the NOS/ANI employee knew that its statement that Tri-V's telephone service would be interrupted unless Tri-V signed a NOS/ANI LOA to keep the lines up and running until the new carrier could finish switching the lines was false.
- 622. NOS/ANI Management knew that, at the time of its statement, the statement that Tri-V's telephone service would be interrupted unless Tri-V signed a

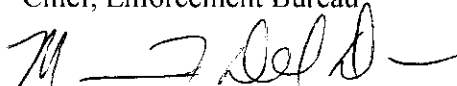
NOS/ANI LOA to keep the lines up and running until the new carrier could finish switching the lines was false.

- 623. After Tri-V had switched its service provider from NOS/ANI, a NOS/ANI employee contacted Tri-V and represented that Tri-V had to sign a NOS/ANI LOA by the close of the call to avoid an interruption in service.
- 624. The NOS/ANI employee's statement that Tri-V had to sign a NOS/ANI LOA by the close of the call to avoid an interruption in service was false.
- 625. At the time of the statement, the NOS/ANI employee knew that its statement that Tri-V had to sign a NOS/ANI LOA by the close of the call to avoid an interruption in service was false.
- 626. NOS/ANI Management knew that, at the time of the statement, the statement that Tri-V had to sign a NOS/ANI LOA by the close of the call to avoid an interruption in service was false.
- 627. Tri-V signed an NOS/ANI LOA after the contact from NOS/ANI.
- 628. On or about June 13, 2002, switched Tri-V's InterLATA service, IntraLATA service, and local telephone service back to NOS/ANI.
- 629. Tri-V did not authorize NOS/ANI to switch its service provider back to NOS/ANI.
- 630. The NOS/ANI employee used misleading statements or practices in its attempt to induce Tri-V to sign a NOS/ANI LOA.
- 631. If NOS/ANI obtained Tri-V's authorization to switch its carrier to NOS/ANI by convincing Tri-V to execute a NOS/ANI LOA, NOS/ANI did so through the use of misleading statements or practices.

632. *Tri-V did not expressly, knowingly or willingly authorize NOS/ANI to switch its telephone service back to NOS/ANI.*
633. On or about August 5, 2002, Tri-V again switched its telephone service provider away from NOS/ANI.
634. On or about August 19, 2002, NOS/ANI again switched Tri-V telephone provider back to NOS/ANI.
635. On or about August 26, 2002, Tri-V again switched its telephone service provider from NOS/ANI.
636. Attachment U is a true and accurate copy of a letter dated October 2, 2002, from Tina Rand of Tri-V to NOS/ANI.
637. The following statement by Tri-V in Attachment U is true and accurate: "I have switched phone carriers from Cierracom to Ameritech in May."
638. The following statement by Tri-V in Attachment U is true and accurate: "In June and August you have stolen [Tri-V's phone service] back [from Ameritech]."
639. Attachment V is a true and accurate copy of a letter dated October 2, 2002, from Tina Rand of Tri-V addressed to The Federal Communications Commission and copied by Tri-V to NOS/ANI.
640. The following statement by Tri-V in Attachment V is true and accurate: "On May 7, Tri V Services switched our local service to Ameritech and our long distance service to Qwest."
641. The following statement by Tri-V in Attachment V is true and accurate: "On June 13 Cierracom stole [Tri-V's phone service] back."

642. The following statement by Tri-V in Attachment V is true and accurate: "On June 27th we attempted to go back to Ameritech. That switch was completed on August 5th."
643. The following statement by Tri-V in Attachment V is true and accurate: "Now on August 19th Cierracom again took us back."
644. The following statement by Tri-V in Attachment V is true and accurate: "The switch to Ameritech was made on August 26th."
645. The following statement by Tri-V in Attachment V, referring to NOS/ANI as "they," is true and accurate: "When they call me they threaten me and tell me they are going to cut off all my phone lines."

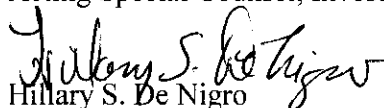
Respectfully submitted,
David H. Solomon
Chief, Enforcement Bureau



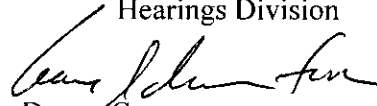
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Washington, D.C. 20554
(202) 418-1420

May 27, 2003

CERTIFICATE OF SERVICE

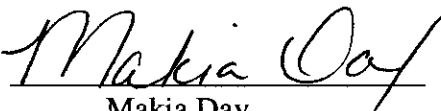
Makia Day, a staff assistant of the Enforcement Bureau's Investigations and Hearings Division, certifies that she has, on this 27th of May, 2003, sent by first class United States mail, and by email copies of the foregoing "Enforcement Bureau's Request for Admission of Facts and Genuineness of Documents" to:

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Federal Communications Commission
445 12th Street, S.W., Room 1-C861
Washington, D.C. 20054


Makia Day

* Hand-Delivered

Attachment

A

DM PRESENTATION WINBACK 1

Hi (DM NAME)...this is _____ with _____ your current long distance carrier....
How's yer day going so far.... Good ?... I noticed where someone put in a request to
move your phone lines to another service....and I just want to apologize because we
obviously let you down...and I also want to say thank you for the business you've given
us...

And if things don't work out with yer new carrier...I'd really appreciate it if you'd give us
another chance. Your lines are still billing on our service And I imagine you want them
left up and running till the new carrier picks them up...right..?

IF YES KEEP GOING.....

Now what I'm going to do is send you \$500 in pre paid calling in case you do have any
problems. Because the last thing we want you to do is to leave with a bad taste in your
mouth.

I'm also gonna send you another Letter of Agency.

[MUST SAY]

This will allow us to keep all your lines up and running, including yer local service(DM
NAME).... Just until they can properly switch them.

IF ANY REBUTTAL GO HERE

IF NO REBUTTAL GO TO CLOSE

Now because you've signed a letter of agency with another company... and they didn't
pick up all your lines at once... this could cause a disruption to your service....so I'm
calling to confirm that you still want ALL your lines left up and running for now.

IF ASKED WHY WOULD IT CAUSE A DISRUPTION

Unfortunately (DM Name)... our tariff does not allow us to service partial line
accounts... and our system is set up to take down accounts that have partial lines still
billing... so I'm calling to confirm that you want these lines left up and running for now.

JUSTIFICATION FOR POLICY

The cost for our company to service... and bill and collect... on a partial line account...
that may only generate \$25 -\$50 in billing... is almost as high as the cost to service an
entire account... where all the lines are billing on our service... that may bill \$250 -
\$500. **So the bottom line is... it's just not profitable for us to service partial line
accounts.**

CLOSE AND CAC

If you could grab my fax I will only take a couple more seconds of your time....and we should be able to pick all your lines without having to bother you anymore. In order to make sure this is done correctly... we may have to conference you in with the local phone company... which usually takes about 20 minutes... or... if it's ok to just use your name... we can take care of it ourselves... this way we don't have to bug ya anymore is that O.k (MUST WAIT FOR RESPONSE). Now the fax should be there all I need you to do is just sign and date it and fax it back at (COMPANY FAX)...that way we'll be covered....and you'll still have service...

HOLD FOR L.O.A

(AFTER LOA IS RECEIVED)

Let me ask you...just out of curiosity...why ya leaving?
{Address The Issue}

IF RATE IS ISSUE THEN——

Oh... I'm sorry ... I'll tell you what... I'm gonna give ya a nice reduction on your rate...this way you don't have to worry about switching again.

*****Reduce Rate only to whatever the rate was before the last rate increase.**

Question: Can you just leave my lines up for a couple of days?

Answer: We can leave them until tomorrow, if that will help you.

Attachment

B

DOCKET NO. 03-96

DOCUMENT OFF-LINE

This page has been substituted for one of the following:

- o This document is confidential (**NOT FOR PUBLIC INSPECTION**)
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1 CASSETTE

Attachment

C

TRANSCRIPT OF PROCEEDINGS

SIERRA COM SYSTEMS)

Live Tape

(The following transcript was transcribed from an audio cassette tape provided by Federal Communications Commission to Heritage Reporting Corporation on May 2, 2003.)

Pages: 1 through 51

HERITAGE REPORTING CORPORATION

Official Reporters
1220 L Street, N.W., Suite 600
Washington, D.C. 20005-4018
(202) 628-4888
hrc@concentric.net

TRANSCRIPT OF PROCEEDINGS

Date: May 2, 2003

HERITAGE REPORTING CORPORATION

Official Reporters
1220 L Street, N.W., Suite 600
Washington, D.C. 20005-4018
(202) 628-4888
hrc@concentric.net

FEDERAL COMMUNICATION COMMISSION

SIERRA COM SYSTEMS)

Live Tape

(The following transcript was transcribed from an audio cassette tape provided by Federal Communications Commission to Heritage Reporting Corporation on May 2, 2003.)

Heritage Reporting Corporation
(202) 628-4888

SIDE A

1

2

3

FEMALE VOICE: Good afternoon, Star Brown's. May I help you?

4

5

MARSHA GIBBS: Yes, can I speak to Brian Miller, please?

6

7

FEMALE VOICE: May I tell him who's calling?

8

9

MARSHA GIBBS: This is Marsha Gibbs.

FEMALE VOICE: Marsha Gibbs?

10

11

12

MARSHA GIBBS: Uh-huh.

FEMALE VOICE: Just a second.

MARSHA GIBBS: Thank you.

FEMALE VOICE: You're welcome.

13

14

BRIAN MILLER: Hello, this is Brian Miller. Can I help you?

15

16

17

MARSHA GIBBS: Hi, Brian. My name is Marsha Gibbs. I'm calling from Sierra Com Systems in the corporate office.

18

19

20

21

22

23

24

25

BRIAN MILLER: Yes.

MARSHA GIBBS: You know calls are monitored for quality assurance purposes. I actually called to apologize. I see here where you're leaving our service, and we want to thank you for the business you did give us, and if things don't work out with your new carrier we'd like an opportunity to work with you again in the future.

Your "inaudible" numbers are still billing here

1 with us, along with a couple of the working telephone
2 numbers. I wanted to know if you want us to leave those
3 lines up and running for right now or do you want us to just
4 go ahead and proceed to take them down?

5 BRIAN MILLER: No. I was told that those were
6 going to be changed on the 11th I believe of April.

7 MARSHA GIBBS: Okay. They haven't. The 800
8 numbers are still billing here. Let me see what -- let me
9 tell you. Okay. Most of them --

10 BRIAN MILLER: Most of them were discontinued.

11 MARSHA GIBBS: Right.

12 BRIAN MILLER: Yes.

13 MARSHA GIBBS: Then that's what I was just going
14 to tell you, and then they switched over two so far, but the
15 800 numbers are still billing here with us, and no fault to
16 your new carrier. It's probably that we got our alert too
17 soon in the system before they could actually complete
18 everything, and that's the reason why the red flag probably
19 came up.

20 But this is what we can do. You know because
21 otherwise our company is not tariffed to do partial line
22 billing. That's the reason why we call the disruption to
23 everything. We're carrying the traffic without
24 authorization, because even though you signed that letter of
25 agency with us, I think it was back in February that you

1 came on board with us originally, when you signed the letter
2 with the other company, it voided out any authorization we
3 had to carry the traffic.

4 BRIAN MILLER: Right.

5 MARSHA GIBBS: So in essence right now some of it
6 is still physically here with us, but we don't have
7 permission to carry it. So what I can do is I can send you
8 out a letter of authorization from our company. This would
9 have allowed us to carry the traffic in the interim period,
10 only until this company can complete your switch.

11 You can state that on an addendum and attach that
12 with it in detail and listing the company that you're
13 switching to.

14 BRIAN MILLER: I really would have preferred that
15 it be switched back immediately, because your rates are much
16 higher than their rates are.

17 MARSHA GIBBS: Well, the thing of it is, is that
18 I'll wear the black eye for what caused you to leave in the
19 first place, but the thing of it is, is that it's not our
20 fault that they didn't migrate it over. That's why we
21 called you out of a courtesy.

22 You know we're respecting the fact that you are
23 leaving. You know we released and did everything that we
24 needed to do on this end, because with our company we don't
25 have contracts, terms, plans or agreement. But any moment